



**WRITTEN TESTIMONY OF  
WORLD WILDLIFE FUND-US  
ON THE  
CONSERVATION OBLIGATIONS OF THE  
TRANSPACIFIC PARTNERSHIP AGREEMENT  
FOR THE  
HOUSE WAYS AND MEANS COMMITTEE,  
U.S. HOUSE OF REPRESENTATIVES**

**NOVEMBER 17, 2015**

Ranking Member Levin, members of the committee, and other attending Members, thank you for the opportunity to submit written testimony on the conservation obligations of the Trans-Pacific Partnership (TPP) agreement. Our testimony is offered on behalf of World Wildlife Fund-US (WWF-US).

World Wildlife Fund (WWF) is the world's leading conservation organization, working in 100 countries and supported by 1.2 million members in the United States and close to 5 million globally. WWF's unique way of working combines global reach with a foundation in science, involves action at every level from local to global, and ensures the delivery of innovative solutions that meet the needs of both people and nature.

**INTRODUCTION**

Natural resources are highly traded goods. The future of a nation's forests or a community's marine resources or even the lifespan of a tiger are no longer determined only by local decisions. Global trade has increased the pressure on these vital natural resources, making their fate a multi-nation decision. We currently need one-and-a-half Earths to account for the natural resources we use. Essentially, we're living on resources borrowed from future generations.

TPP nations are no exception to this sustainability challenge, representing major producers, exporters, and importers of seafood, wood, and other natural resources. TPP partner countries:

- Represent five of the world's top 10 fishing nations (and seven of the world's top 20) in total accounting for nearly 30% of the global marine catch in 2013.
- Account for one third of global fish product imports and nearly a quarter of global exports.
- Account for approximately 34% of global timber and pulp production and 26% of total forest products trade value worldwide.
- Represent significant importing, exporting, and transit countries for legal and illegal wildlife specimens.

The focus of trade talks on facilitating economic growth often gives little consideration for sustainability. Since the opening of the TPP negotiations, WWF recognized that without significant

conservation obligations within the Environment Chapter, the economic benefits of trade would be lost as cheaper, illegal, unsustainably managed products that threaten biodiversity would undermine profits and threaten jobs in countries where resources are legitimately harvested and well managed.

Considering the history of conservation and trade, efforts to leverage a trade agreement for conservation obligations did not come without skepticism and controversy. In fact, past trade agreements have been notable for their lack of obligatory conservation commitments. In 2007, the United States took a major step forward when it decided to hold conservation commitments in trade agreements to the same enforcement standards as commercial commitments. In other words, conservation was no longer on the back burner in trade negotiations.

Nonetheless, the implementation and enforcement of current conservation obligations within trade agreements has been inconsistent. So although the TPP includes some of the most far-reaching conservation measures of any trade agreement to date, their effectiveness will hinge on their implementation and enforcement.

The conversation cannot stop with the negotiations. TPP nations must make sincere efforts to uphold their obligations, and those efforts must result in effective measures that will lead to healthier forests and oceans, as well as richer biodiversity with reductions in poaching.

WWF-US is prepared to provide advice and technical assistance to effectively implement the conservation measures in the TPP, as well as in existing and future trade agreements. We are also committed to advancing the global trade conversation to do more to preserve global biodiversity, better address climate change, and promote and protect countries' ability to sustainably manage their natural resources.

### **NOTEWORTHY CONSERVATION OBLIGATIONS OF THE TPP**

No major trade agreement before the TPP has gone so far to address growing pressures on natural resources like overexploited fish, wildlife and forests. Significant conservation obligations require all TPP nations to:

- Enforce the obligations of the environment chapter through the same mechanisms as the commercial obligations, including the ability to bring sanctions.
- Effectively enforce their environmental laws.
- Take measures to combat, and cooperate to prevent, the trade of illegal wild flora and fauna that is taken or traded illegally. Such measures must be an effective deterrent to such trade.
- Adopt, maintain and implement laws, regulations, and any other measures to fulfill obligations under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).
- Seek to operate fisheries management systems that are designed to prevent overfishing and capacity, reduce bycatch of non-target species and juveniles, and promote the recovery of overfished stocks for all marine species in which that Party's persons conduct fishing activities.
- Promote long term conservation of sharks, marine turtles, seabirds, and marine mammals through the implementation of effective enforcement of conservation and management measures.

- Combat Illegal, Unreported, and Unregulated (IUU) fishing practices, including deterring trade in products resulting from IUU practices, by implementing port state measures; and act consistently with relevant conservation and management measures, including catch or trade documentation schemes, adopted by the Regional Management Organizations of which a Party is not a member so as not to undermine those measures.
- Eliminate fishing subsidies that negatively affect fish stocks that are in an overfished condition and subsidies provided to IUU fishing vessels.

### **IMPLEMENTATION IS CRITICAL FOR THE EFFECTIVENESS OF THESE OBLIGATIONS**

The effectiveness of the conservation obligations within the TPP will require a range of actions by participating countries. These include –

- a rigorous certification process in the United States to assess a country's compliance with its obligations, including a clear roadmap to fill any policy gaps before the agreement can enter into force;
- a strategy to build capacity amongst TPP nations to ensure each can meet its conservation obligations; and
- a quantitative means to measure compliance, as well as the adequateness of enforcement measures.

### **A RIGORIOUS CERTIFICATION PROCESS TO ASSESS A COUNTRY'S COMPLIANCE WITH ITS OBLIGATIONS, INCLUDING A CLEAR ROADMAP TO FILL ANY POLICY GAPS, BEFORE THE AGREEMENT ENTERS INTO FORCE**

For the agreement to be a useful tool in addressing the Pacific region's tremendous conservation challenges, each nation will need to take on ambitious measures to effectively comply with their TPP obligations.

For example, at present, countries don't do enough to prohibit the trade in illegal wildlife as well as other illegal products obtained from forests and oceans. The TPP could mark real progress on conserving wildlife, fisheries and forests, but the member countries need to go beyond good words and intentions in the agreement to support and implement effective environmental protections as the TPP requires.

In Vietnam, this could include (these are preliminary examples that will be further developed and expanded over time)–

- Updating current legislation to include prohibitions against illegal wildlife, timber, and fish trade of foreign origin, including adequate penalties for violations.
- Increased training amongst judiciary and border police on identifying illegal animals, timber, and fish.
- Increased capacity for prosecuting violations of illegal natural resource trade, including case management and evidence collection.

Also, TPP countries will need to go further to implement measures to promote marine conservation and fight IUU fishing, such as ensuring that they have effective national plans of action to address the overfishing of sharks. Furthermore, to ensure that the TPP effectively addresses the landing of IUU caught fish, ratification and implementation of the Port State Measures Agreement by TPP countries should be the minimum required for US certification that a TPP country has met its obligations to implement port state measures.

### A STRATEGY TO BUILD CAPACITY AMONGST TPP NATIONS TO ENSURE EACH CAN MEET ITS OBLIGATIONS, INCLUDING QUANTITATIVE MEANS TO MEASURE COMPLIANCE AND ENFORCEMENT

Increased capacity building in the form of appropriations and technical support will be necessary to support TPP nations in their compliance with the conservation obligations of the TPP. The US government should develop a clear strategy that draws on its range of technical assistance tools to support country capacity building.

Funding this strategy will be critical for its implementation. Congress, working with the administration and pulling from the expertise of civil society, should construct a funding package that supports the each country capacity strategy. Funding could also include, but should not be limited to, the creation of a trust fund, as outlined in the STRONGER (Supplemental Trade Review, Oversight, Noncompliance and General Enforcement Resources) Act, that would use some of the penalties paid to the United States to more effectively enforce and implement our trade agreements, with a priority for environmental obligations, including those in the TPP.

These recommendations support and build on those outlined in GAO-15-161, *Free Trade Agreements: Office of the U.S. Trade Representative Should Continue to Improve Its Monitoring of Environmental Commitments*, published November 2014 that called on USTR to mitigate the risk and cost of ineffective implementation with the creation of:

- Time frames and performance indicators to assess if TPP countries are meeting the commitments of the agreement;
- Bilateral action plans between the US and each country to address country-specific challenges;
- An interagency monitoring subcommittee within the US government to establish time frames and indicators to implement a plan for enhanced monitoring of implementation within each TPP country for is environment and conservation obligations.

### CONCLUSION

With rigorous implementation, the conservation obligations of the TPP could be helpful tools in addressing conservation challenges in the Asia-Pacific region. WWF shares concerns about ISDS and believe it is critical that ISDS should not be used as a means to undermine environmental regulations or induce “regulatory chilling.” In addition, the TPP does not explicitly address climate change, one of the greatest challenges of our time. That work is being pursued in other international and bilateral mechanisms. To avoid undermining the potential conservation gains of TPP, we need to see accelerated action through those other forums to close the gap between current emission reduction pledges and what the world needs to avoid the worst consequences of climate change.